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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,000

06/13/2006

Masahide Ishikawa

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23850 7590 08/27/2009
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON, DC 20005

EXAMINER

MULCAHY, PETER D

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

08/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,000	Applicant(s) ISHIKAWA ET AL.	
	Examiner Peter D. Mulcahy	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-19, 23, 25 and 27-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-19, 23, 25 and 27-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. The term "obtainable" in claim 31 renders the claim indefinite. It is unclear as to how this further limits the claim.
3. The limitations of claim 32 appear redundant.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12, 15-21, 23, 25 and 27-40 rejected under 35 U.S.C. 103(a) as being unpatentable over JP 07-278374 in view of Sadamitsu et al. 2006/0091581.
6. The rejection under 35 USC 103 in the paper mailed 12/29/08 as applied to claims 2, 10, 16 and 19-26 is maintained and is herein applied to all claims pending, 1-12, 15-21, 23, 25 and 27-40.
7. Applicant has amended and added claims directed to various combinations of embodiments of the instant invention. The remarks supporting patentability have been fully considered but have been found not persuasive.

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8. Applicant argues that the JP 07-278374 is directed to the improvement in transparency by the use of specific nucleating agents. Further, the fatty acid salt is mentioned as a member of a list and not required or exemplified. This is not persuasive. There is no patentable distinction between controlling the crystallization rate of a resin composition, as claimed, and the transparency of a resin composition as discussed in the art. It is well understood that crystallinity and transparency are closely related. The more crystalline the polymeric structure, the more transparent the resultant molding. Applicant's attempts to distinguish the claims from the art by arguing the distinctions between the crystallinity and transparency are not persuasive. These are simply different terms to describe the same property.

9. Applicant then argues that Sadamitsu does not teach the use of the claimed tri- or tetra- amid but rather is limited to di-amide compounds. This is not persuasive. The JP 07-278374 patent is cited as showing the claimed amide compounds. The fact the Sadamitsu is directed to di-amides in combination with the fatty acid salts provides one of ordinary skill in the art a reasonable expectation that the amides shown in JP 07-278374 would function in the moldings and processes as well.

10. The fact that JP 07-278374 does not mention controlling the rate of crystallization is not germane to the patentability. This document shows the same amide compounds as those claimed used in the same polymeric compositions and molded articles formed therefrom. It is reasonable to presume that the same compounds impart the same properties when added to the same polymers. Applicant has failed to show or allege that such is not the case.

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11. It is argued that claims 27, 28 and 33-40 call for molding wherein the amide is in "fibrous particles." The art is seen to suggest the claimed "fibrous particles" when Sadamitsu et al identifies the amide compounds in the form of "needle crystals" and "columnar crystals" at [0045]. This is seen to overlap in scope with the claimed "fibrous particles" and impart the claimed "orientation degree" and reflection intensity." Applicant has failed to show or allege otherwise. The fact that the art is silent as to the claimed property is no reason to believe that the property is not possessed by the composition and/or moldings therefrom.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy whose telephone number is 571-272-1107. The examiner can normally be reached on Mon.-Fri. 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter D. Mulcahy/
Primary Examiner, Art Unit 1796